



State Water Resources Control Board



Linda S. Adams
*Secretary for
Environmental Protection*

Division of Water Rights
1001 I Street, 14th Floor ♦ Sacramento, California 95814 ♦ 916.341.5300
P.O. Box 2000 ♦ Sacramento, California 95812-2000
Fax: 916.341.5400 ♦ www.waterboards.ca.gov/waterrights/

Arnold Schwarzenegger
Governor

**NOTICE OF PETITION FOR TEMPORARY CHANGE
INVOLVING THE TRANSFER OF 10,000 ACRE-FEET OF WATER
TO AREAS WITHIN THE WESTLANDS WATER DISTRICT
UNDER CALIFORNIA DEPARTMENT OF WATER RESOURCES'
PERMIT 16482 (APPLICATION 17512)**

Notice is hereby given that on February 16, 2010

Department of Water Resources
c/o Nancy Quan, Chief
Program Development and Water Supply and Transfers
P.O. Box 942836
Sacramento, CA 94236-0001

filed with the State Water Resources Control Board (State Water Board), a Petition for Temporary Change under Water Code section 1725, et seq. If approved, portions of the Westlands Water District (WWD), the majority of which is served solely by the U.S. Bureau of Reclamation's Central Valley Project (CVP), would be temporarily added to the authorized place of use under the Department of Water Resources' (DWR) permitted Application 17512. Temporary changes under Water Code section 1725 may be effective for a period up to one year.

DESCRIPTION OF THE TRANSFER

State Water Project (SWP) water is stored in San Luis Reservoir under the provisions of Permit 16482 (Application 17512) and held for use in the service areas of SWP contractors including the Tulare Lake Basin Water Storage District (Tulare) and the Empire West Side Irrigation District (Empire). Newton Farms and Hansen Ranches/Vista Verde Farms are farming interests that hold lands in both Tulare and WWD. Newton and Brooks Farms are farming interests that hold lands in both Empire and WWD. These parties have requested that a total of up to 10,000 acre-feet (af) of SWP water currently scheduled for use on their lands (8,000 af from Tulare and 2,000 af from Empire) be transferred for use on their lands located within WWD. The petitioner indicated that no additional groundwater will be pumped within Tulare or Empire as a result of this transfer. The proposed temporary change would be effective for a period of one year from the date of this order. DWR submitted this petition for temporary change in place of use to facilitate this exchange. In the absence of the proposed temporary change, the water would be used by the aforementioned parties on their lands located within Tulare or Empire.

California Environmental Protection Agency

STATUS OF DWR'S WATER RIGHT

Permit 16482 was issued to DWR on September 26, 1972, and it authorizes DWR to divert to storage up to 1,100,000 af of water between January 1 and December 31 of each year. Authorized sources under Permit 16482 are the Sacramento-San Joaquin Delta Channels, Italian Slough, and San Luis Creek. The water may be used for irrigation, domestic, municipal, industrial, salinity control, recreation, fish and wildlife enhancement, and to generate incidental power. The subject 10,000 af of SWP water is either stored in San Luis Reservoir or will be stored under provisions of DWR's permits (set forth in State Water Resources Control Board Revised Decision 1641) and Biological Opinions issued by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service under the Endangered Species Act. Thus, the transfer of up to 10,000 af to WWD should have no effect on any natural streamflow or hydrologic regime. Release rates from San Luis Reservoir may increase due to the proposed transfer.

STATUS OF WWD'S PROJECT

WWD's service area is located primarily east of Interstate 5, between the cities of Mendota and Kettleman City, in Fresno and Kings Counties; being within T13-22S, R12-19E, MDB&M. For contractual purposes WWD has defined its service area as Priority Areas I, II, and III. Priority Area I is WWD's original service area; Priority Area II includes lands from the June 1965 merger of WWD and the Westplains Water Storage District; and Priority Area III is considered as any lands annexed after June 1965.

- Owners of Priority Area I lands have the right to apply for and purchase up to 900,000 af of CVP contract water. There are approximately 339,000 acres of land in Area I that are irrigable and eligible, under federal reclamation law, to receive CVP water. Consequently, Priority Area I lands receive an average application rate of 2.7 af per acre under 100 percent CVP allocation.
- Owners of Priority Area II lands have the right to apply for and purchase up to 250,000 af of CVP contract water. There are approximately 193,000 acres of land that are irrigable and eligible, under federal reclamation law, to receive CVP water. Consequently, Priority Area II lands receive an average application rate of 1.3 af per acre under 100 percent CVP allocation.
- Priority Area III, consists of approximately 10,000 acres of irrigable land, but has no entitlement to CVP contract water.

In general, land in WWD has complete tailwater control within each field. WWD's pipeline distribution system and landowners' irrigation systems in WWD have been documented as one of the more efficient systems available in California to minimize the

amount of water applied to crops. In addition, WWD has established aggressive programs to encourage water conservation and reduce deep percolation. The areas proposed to receive SWP water under this transfer are within the Priority I and II Areas, as described above. These areas are also shown on a map prepared by DWR, which is available for viewing with the copy of this notice posted on the Division of Water Rights' website at:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/.

COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT

Temporary changes involving the transfer of water that was previously stored are exempt from the requirements of the California Environmental Quality Act (CEQA). However, the State Water Board must consider potential impacts to other legal users of the water and to fish, wildlife, or other instream beneficial uses.

STATE WATER RESOURCES CONTROL BOARD'S STATUTORY PROVISIONS

Pursuant to Water Code sections 1725, et seq., the State Water Board is authorized to issue temporary change orders, allowing the transfer or exchange of water or water rights after completing an evaluation and finding that the proposed temporary changes:

1. Involve only water that would otherwise have been consumptively used or stored by permittee or licensee;
2. Would not injure any legal user of the water; and
3. Would not unreasonably affect fish, wildlife, or other instream beneficial uses.

If the State Water Board cannot satisfy, in a timely manner, the provisions of Water Code section 1725, et. seq., then the State Water Board may deny the petition or schedule and notice a hearing regarding the proposed transfer or exchange of water.

OPPORTUNITY FOR COMMENTS

Pursuant to the requirements outlined above, the State Water Board is seeking information to assist in the evaluation of the proposed temporary change of water rights. Any person may file comments concerning the petition for temporary change. The comments must address the required findings set forth above. The petitioner has the burden of establishing that the proposed temporary change will not injure any legal user of water, or unreasonably affect fish, wildlife, or other instream beneficial uses. If the State Water Board determines that the petitioner has established a prima facie case, the burden of proof then shifts to the party that has filed comments (Water Code section 1727). While such a determination has not been made in this case,

commentors should provide sufficient information to support claims of injury or effects on fish, wildlife, or other instream uses.

Due to the relative brevity of the temporary transfer process, the Division (if necessary) may request that the petitioner submit additional information during the comment period. Any such requests and any additional information submitted by the petitioner regarding this proposed temporary change **during the comment period** will be posted with this notice on the Division of Water Rights' website at http://www.waterboards.ca.gov/waterrights/water_issues/programs/applications/transfers_tu_notices/. Potential commentors are strongly urged to check the website for such information prior to filing a comment.

Comments filed in response to this notice must be received in the office of the State Water Board's Division of Water Rights, at the first address listed below by **April 9, 2010**. Additionally, a copy of the comments must be filed with DWR. **Comments must include proof of service of a separate copy of the materials to the petitioner.** Interested parties are encouraged to file comments by FAX and to notify the following contact persons by telephone of any materials that will be submitted. An original copy of all materials, however, must be received for the State Water Board to consider your comments.

Division of Water Rights
c/o Greg Wilson
P.O. Box 2000
Sacramento, CA 95812-2000
FAX: (916) 341-5400

State Department of Water Resources
c/o Nancy Quan
P.O. Box 942836
Sacramento, CA 94236-0001
FAX: (916) 653-9628

Please address questions about this notice to Greg Wilson at (916) 341-5427. Questions regarding the petitioner or transferee should be addressed as follows:

DWR-SWP (petitioner):

Nancy Quan (916) 653-0190
FAX: (916) 653-9628

WWD (transferee):

Thomas Birmingham (559) 241-6241
FAX: (559) 241-6277

Original signed by

Leslie F. Grober, Manager
Hearings and Special Programs Section

Dated: March 4, 2010